

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

STEPHEN LEE STEELE,

Petitioner,

File No: 1:12-CV-470

v.

HON. ROBERT HOLMES BELL

JOHN PRELESNIK,

Respondent.

/

**ORDER APPROVING AND ADOPTING
MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

On June 11, 2012, Magistrate Judge Joseph G. Scoville issued a Report and Recommendation (“R&R”) recommending that Petitioner Stephen Lee Steele’s petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 be summarily dismissed because it is barred by the one-year statute of limitations. (Dkt. No. 5.) The R&R also recommends that a certificate of appealability be denied. The R&R was duly served on the Petitioner. No objections have been filed, and the deadline for doing so has expired. Upon review, the Court agrees that Petitioner’s habeas corpus petition is time-barred.

An appeal may not be taken from a final order in a habeas case unless a certificate of appealability is issued. 28 U.S.C. § 2253(c)(1); Fed. R. App. P. 22(b)(1). When the claim is denied on procedural grounds, without consideration of the merits of the claim, the petitioner must show both that reasonable jurists would find it debatable that the petition states a valid constitutional claim and that they would “find it debatable whether the district

court was correct in its procedural ruling.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). “Where a plain procedural bar is present and the district court is correct to invoke it to dispose of the case, a reasonable jurist could not conclude either that the district court erred in dismissing the petition or that the petitioner should be allowed to proceed further.” *Id.* Petitioner’s petition is plainly time-barred, and no reasonable jurist could conclude that dismissal is in error or that Petitioner should be allowed to proceed further. Accordingly,

IT IS HEREBY ORDERED that the June 11, 2012, R&R (Dkt. No. 5) is **APPROVED** and **ADOPTED** as the opinion of the Court.

IT IS FURTHER ORDERED that Petitioner’s petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 (Dkt. No. 1) is **SUMMARILY DISMISSED**.

IT IS FURTHER ORDERED that a certificate of appealability is **DENIED**.

Dated: July 17, 2012

/s/ Robert Holmes Bell
ROBERT HOLMES BELL
UNITED STATES DISTRICT JUDGE